

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Chris Olmsted	Team: Squad #09	CCRB Case #: 202103599	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 04/30/2021 1:57 AM	Location of Incident: NE corner of East New York Avenue / Kingston Avenue	Precinct: 71	18 Mo. SOL 10/30/2022	EO SOL 10/30/2022	
Date/Time CV Reported Mon, 06/14/2021 3:00 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 06/14/2021 3:00 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LSA Timothy Brovakos	00000	943025	071 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Aaqib Bhatti	14985	963873	071 PCT
2. POM Mubbashar Zahid	03267	965634	071 PCT
3. POM Adrian Duran	19454	959612	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LSA Timothy Brovakos	Abuse: Lieutenant Timothy Brovakos stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.LSA Timothy Brovakos	Abuse: Lieutenant Timothy Brovakos frisked § 87(2)(b)	
C.LSA Timothy Brovakos	Abuse: Lieutenant Timothy Brovakos inappropriately touched § 87(2)(b)	
D.LSA Timothy Brovakos	Abuse: Lieutenant Timothy Brovakos threatened to arrest § 87(2)(b)	
E.LSA Timothy Brovakos	Abuse: Lieutenant Timothy Brovakos failed to provide § 87(2)(b) with a business card.	
§ 87(2)(g), § 87(4-b)		

Case Summary

On June 15, 2021, § 87(2)(b) filed this complaint with the CCRB by phone on behalf of himself and § 87(2)(b).

On April 30, 2021, at approximately 1:57 a.m., Lieutenant Timothy Brovakos, assisted by PO Aaqib Bhatti, PO Mubbashar Zahid, and PO Adrian Duran, all of the 71st Precinct, stopped the vehicle § 87(2)(b) and § 87(2)(b) were in at the northeast corner of East New York Avenue and Kingston Avenue in Brooklyn. **(Allegation A: Abuse of Authority, § 87(2)(g))** During the stop, Lieutenant Brovakos frisked § 87(2)(b) **(Allegation B: Abuse of Authority, § 87(2)(g))** and allegedly inappropriately touched § 87(2)(b) genitals. **(Allegation C: Abuse of Authority, § 87(2)(g))** Lieutenant Brovakos threatened to arrest § 87(2)(b) **(Allegation D: Abuse of Authority, § 87(2)(g))** At the end of the interaction, Lieutenant Brovakos failed to provide § 87(2)(b) with a Right to Know Act card. **(Allegation E: Abuse of Authority, § 87(2)(g))** § 87(2)(g), § 87(4-b)

This incident did not result in an arrest or summons.

NYPD Legal provided relevant body-worn camera (BWC) recordings from Lieutenant Brovakos (Board Review [BR] 01) and PO Zahid (BR 02), as well as recordings from PO Duran and PO Bhatti that do not capture additional information.

Findings and Recommendations

Allegation (A) Abuse of Authority: Lieutenant Timothy Brovakos stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that at approximately 1:57 a.m. on April 30, 2021, Lieutenant Brovakos and officers under his command were on patrol in police vehicles when they stopped a vehicle with window tints that appear dark to the naked eye at the northeast corner of East New York Avenue and Kingston Avenue.

Lieutenant Brovakos's BWC recording of the incident confirms beginning at 01:00 that the vehicle he stopped had tinted windows. (BR 01)

New York Vehicle and Traffic Law § 375 12-a.(b)(2) states, "No person shall operate any motor vehicle upon any public highway, road or street: the sidewings or side windows of which on either side forward of or adjacent to the operator's seat are composed of, covered by or treated with any material which has a light transmittance of less than seventy percent". (BR 03)

§ 87(2)(g)

Allegation (B) Abuse of Authority: Lieutenant Timothy Brovakos frisked § 87(2)(b)
Allegation (C) Abuse of Authority: Lieutenant Timothy Brovakos inappropriately touched § 87(2)(b)

From 04:21 to 05:02 in Lieutenant Brovakos's BWC recording (BR 01) and from 04:05 to 04:45 in PO Zahid's BWC recording (BR 02), Lieutenant Brovakos orders § 87(2)(b) out of the vehicle and frisks him. In both recordings, during the frisk, § 87(2)(b) asks, "why are you grabbing my dick?" Lieutenant Brovakos states, "I'm searching you." § 87(2)(b) states, "you're grabbing my dick." Lieutenant Brovakos states, "I never grab people's genitals. That's a lie." § 87(2)(b) states, "that's exactly what you did last time." Lieutenant Brovakos states, "that's a lie."

Lieutenant Brovakos stated to the CCRB that his frisk of § 87(2)(b) was within his authority as a Search Incident to a Lawful Arrest (SILA), and that he intended at the time to arrest § 87(2)(b) for having forged tags on his car. He stated that his intention when he frisked § 87(2)(b)

§ 87(2)(b) was to check § 87(2)(b) for weapons. Lieutenant Brovakos stated that because he had previously arrested § 87(2)(b) and found § 87(2)(b) to be in possession of crack cocaine, and because in his experience people involved with drugs often have weapons, Lieutenant Brovakos believed § 87(2)(b) could have a weapon on him. Lieutenant Brovakos stated he made no specific observations during this incident that led him to suspect § 87(2)(b) had a weapon. Lieutenant Brovakos recalled that during the search § 87(2)(b) accused him of grabbing his genitals. Lieutenant Brovakos stated to the CCRB that he never grabbed § 87(2)(b) genitals and never made contact with § 87(2)(b) genitals. Lieutenant Brovakos stated that he did pat down § 87(2)(b) groin, thigh area, and waistband, and that he did so because that is where people sometimes conceal firearms. (BR 04)

In People v. Reid, 24 N.Y.3d 615 (2014) the Court of Appeals of New York held that, "It is irrelevant that, because probable cause existed, there could have been an arrest without a search. A search must be incident to an actual arrest, not just to probable cause that might have led to an arrest, but did not." (BR 05)

Patrol Guide Procedure 212-11 governing stops states, "A frisk is authorized when a member of service reasonably suspects the suspect is armed and dangerous." (BR 06)

Lieutenant Brovakos stated that he frisked § 87(2)(b) incident to a lawful arrest and to check him for weapons. As no officer arrested § 87(2)(b) during this incident no officer had the authority to frisk § 87(2)(b) incident to an arrest. As Lieutenant Brovakos stated that he made no observations of § 87(2)(b) during this incident that led him to suspect § 87(2)(b) was armed, Lieutenant Brovakos did not "reasonably suspect" that § 87(2)(b) was armed and dangerous.

§ 87(2)(g)

Both relevant BWC recordings from the incident capture § 87(2)(b) contemporaneously alleging that Lieutenant Brovakos grabbed his genitals and Lieutenant Brovakos contemporaneously denying the action, but neither recording captures Lieutenant Brovakos's hands for the duration of the interaction. § 87(2)(g)

Allegation (D) Abuse of Authority: Lieutenant Timothy Brovakos threatened to arrest § 87(2)(b).

Starting at 8:18 in his BWC recording, Lieutenant Brovakos states to § 87(2)(b) that although Lieutenant Brovakos has probable cause to arrest § 87(2)(b) for having forged tags on his car Lieutenant Brovakos will not arrest § 87(2)(b). Lieutenant Brovakos then states to § 87(2)(b) "if I see you committing the same crime again, you're going to jail."

BWC evidence supports Lieutenant Brovakos's assessment of his probable cause. Beginning at 5:53 in Lieutenant Brovakos's recording, while PO Zahid is looking at an arrest report on his department phone, PO Zahid states to § 87(2)(b) "§ 87(2)(b) you were arrested in the car and your license plate was § 87(2)(b)." Lieutenant Brovakos asks what state and PO Zahid states, "Texas." Lieutenant Brovakos states that now the license plate reads "§ 87(2)(b)" PO Zahid states that the vehicle has the same VIN as the vehicle from the § 87(2)(b) stop. (BR 01)

NY Penal Law § 170.25 states, "A person is guilty of criminal possession of a forged instrument in the second degree when, with knowledge that it is forged and with intent to defraud, deceive or injure another, he utters or possesses any forged instrument of a kind specified in section 170.10. Criminal possession of a forged instrument in the second degree is a class D felony." (BR 07)

BWC evidence shows that § 87(2)(b) had temporary plates on his vehicle that were different from the temporary plates he had on his vehicle one month prior. § 87(2)(g)

Although

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]
- Lieutenant Brovakos has been a member of service for 15 years and has been a subject in 35 other CCRB complaints and 138 other allegations, of which five were substantiated.
§ 87(2)(g) [REDACTED]
[REDACTED]
 - 201500206 involved a substantiated allegation of a vehicle search against Lieutenant Brovakos. The Board recommended Command Discipline B and the NYPD imposed formal training.
 - 201905132 involved a substantiated allegation of a discourtesy against Lieutenant Brovakos. The Board recommended Command Level Instructions and the NYPD imposed instructions.
 - 201910398 involved substantiated allegations of a discourtesy, a vehicle stop, and a failure to provide an RTKA card against Lieutenant Brovakos. The Board recommended Command Discipline A for each and the NYPD imposed no penalties for any.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of April 27, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this incident. (BR 12)
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Squad No.: 09

Investigator:	<u>Christopher Olmsted</u>	<u>Investigator Chris Olmsted</u>	<u>06/02/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Monique West</u>	<u>IM Monique West</u>	<u>05/31/2022</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date